

REMARKS

Claims 104-111 presently appear in this case. No claims have been allowed. The official action of November 14, 2007, has now been carefully studied. Reconsideration and allowance are hereby respectfully urged.

Briefly, the present invention relates to a polypeptide that binds to NIK, which is the intracellular domain of *cyc* or a fragment, variant, salt or functional derivative thereof that binds to NIK.

The interview among Examiner Woodward, SPE Nickol and the undersigned attorney on February 15, 2008, is hereby gratefully acknowledged. In this interview, the written description rejection was discussed in detail and a suggestion was made to amend claim 104 in a manner that would overcome the rejection. Upon consideration of this proposed amendment, the examiners agreed that it would overcome the rejection. Furthermore, it was agreed that claims 105-107 would be amended to change "comprising" to "consisting of" to obviate the rejection of these claims. Thus, agreement was reached on obviating the written description rejection and the claim objections. The thrust of the arguments presented at the interview will be presented in the discussion of the rejections hereinbelow.

Appln. No. 10/511,722
Amdt. dated February 20, 2008
Reply to Office action of November 14, 2007

The examiner has repeated and made final the restriction requirement. Furthermore, in the interview the examiner stated that none of claims 112-119 would be rejoined with the present application even if claim 104 were to be allowed. Accordingly, these claims have all now been deleted without prejudice toward the continuation of prosecution thereof in a divisional application. However, previously withdrawn claims 108-111 should now be examined in this case as they are now species of allowed claim 104. They have also been amended in the same manner that claims 105-107 were amended to avoid the objection thereto. Accordingly, reconsideration of the restriction requirement to the extent of rejoining species claims 108-111 are respectfully urged.

The examiner states that the objection to the use of the trademark Clontech on page 47 is maintained. While applicant has argued that "Clontech" is a trade name and not a trademark, the examiner has cited a trademark registration showing that CLONTECH is also used as a trademark. Subjection is again respectfully traversed.

The term "Clontech" appears at both page 47 and 59. In all of those instances, the name was intended to refer to the name of the company from which the product was obtained, not the trademark for the product itself. Thus, in order to clarify this, the term "Clontech" has been changed to read as its full

Appln. No. 10/511,722
Amdt. dated February 20, 2008
Reply to Office action of November 14, 2007

trade name "Clontech Laboratories, Inc." (which is indicated to be the owner of the CLONTECH trademark in the trademark registration cited by the examiner). With this amendment it is now believed that it is unnecessary to capitalize Clontech. However, if the examiner still believes this is necessary, she is authorized to make this change by examiner's amendment.

Claim 104 has been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The rejection is based on the language of the claim to the extent that it includes variants of fragments of (a). This rejection is respectfully traversed.

It was pointed out in the interview that many of the Examples in the present specification are indeed variants of fragments (or fragments of variants, depending on how one looks at it). Thus, it is important that the present claims encompass such embodiments. In order to obviate the alleged ambiguity noted by the examiner in the official action and repeated by the examiner in the interview, claim 104 has now been amended to specify in paragraph (b) that the polypeptide is a variant of (a) maintaining at least 95% identity with (a) and retaining the ability to bind NIK. The examiner has previously indicated that this language was acceptable and that it was only the variants of fragments that caused problems. Claim 104 has further been amended to specify as new paragraph (c) that the polypeptide may

be a fragment of (a) that retains the ability to bind NIK (which the examiner has previously indicated to be acceptable) or a fragment of (b) that retains the ability to bind NIK. The claim now specifies that the polypeptide is a fragment of the variant rather than a variant of the fragment. As variants with 95% identity were considered to fulfill the written description requirement and, indeed, there are examples thereof in the specification, and as fragments of the intracellular domain also have been found to comply with the written description requirement, fragments of the adequately described variants should also be considered to be in compliance with the written description requirement. A fragment of the non-substituted intracellular domain of *cyc* that maintains the ability to bind NIK would be expected to still bind NIK if that fragment also encompassed the variations that maintain NIK binding when made to the entire intracellular domain of *cyc*.

Thus, claim 104 now makes clear that it is directed to the intracellular domain of *cyc*, a variant of the intracellular domain of *cyc* maintaining at least 95% identity therewith and retaining the ability to bind to NIK as well as fragments of the intracellular domain of *cyc* that retain the ability to bind to NIK and fragments of the variants of the intracellular domain of *cyc* that maintain at least 95% identity with *cyc* and retain the ability to bind to NIK, which fragments also retain the ability

Appln. No. 10/511,722
Amdt. dated February 20, 2008
Reply to Office action of November 14, 2007

to bind NIK. In the interview, the examiners agreed that this language would obviate the rejection for the reasons discussed above. Reconsideration and withdrawal of this rejection is therefore respectfully urged.

Claims 105-107 have been objected to under 35 U.S.C. 1.75(c), as being of improper dependent form.

Claims 105-111 have now been amended to change the term "comprising" to read "consisting of." It was agreed in the above interview that this amendment obviates the present objection.

It is submitted that all of the claims now present in the case clearly define over the references of record and fully comply with 35 U.S.C. 112. Reconsideration and allowance are therefore earnestly solicited.

Respectfully submitted,

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